

VZCZCXR05589

PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR

DE RUEHLJ #0126/01 0641348

ZNY CCCCC ZZH

P 051348Z MAR 07

FM AMEMBASSY LJUBLJANA

TO RUEHC/SECSTATE WASHDC PRIORITY 5601

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 04 LJUBLJANA 000126

SIPDIS

SIPDIS

EUR/NCE FOR SSADLE, DRL FOR MDAVIS

E.O. 12958: DECL: 03/01/2017

TAGS: PHUM PGOV SI

SUBJECT: SLOVENIA: ACTIVISTS FOCUS ATTENTION ON "ERASED" IN
RUN UP TO SLOVENIA'S EU PRESIDENCY

REF: A. 2006 LJUBLJANA 192

¶B. 2004 LJUBLJANA 276

Classified By: COM for reasons 1.4 (b) and (d)

¶11. SUMMARY. (U) The story of several thousand Slovenian residents whose records were erased by state officials fifteen years ago -- leaving them in administrative limbo -- hurtled back into the spotlight again this month as human rights organizations and members of the "erased" community launched a public affairs offensive asking the European Union to press the Government of Slovenia to bring a conclusion to the problem. International and domestic human rights observers agree that the issue should not drag on any longer. But political pressure, including a heated debate on "erased" persons' loyalty to Slovenia, and financial factors related to potential compensation make a final resolution of the "erased" problem difficult. While the outlook for a compromise solution seems bleak, the increasing pressure the GoS is feeling to move forward, especially given its EU Presidency in 2008, make now a particularly good time to permanently resolve the status of the "erased." END SUMMARY.

- - - - -
The Peculiar Story of Slovenia's "Erased"
- - - - -

¶12. (U) The "erased" are part of a larger group of approximately 200,000 Yugoslav citizens who were permanently residing in Slovenia when Slovenian officials declared independence on December 23, 1990. According to Slovenia's Act on Citizenship, these residents had six months to apply for citizenship or risk losing their legal status. Approximately 170,000 people obtained citizenship on the basis of the Act, and of the remaining 30,000, approximately 11,000 left Slovenia. The final 18,305 persons who stayed in Slovenia but did not file a petition for citizenship -- for reasons ranging from being unaware of the requirement, to confusion about the permanency of the new Slovenian state, to opposition to independent Slovenian statehood -- had their records removed from the register of permanent residents on February 26, 1992.

¶13. (U) The Act on Citizenship and a follow up law on the "erased" that offered an additional chance for "erased" people to apply for permanent residency were both declared unconstitutional by Constitutional Court rulings (in 1999 and 2003 respectively). The Constitutional Court decided that several articles were unconstitutional because the law did not recognize the "erased" persons' permanent residence from the initial date when they were removed from the register and required "erased" persons to prove their residence in Slovenia after their removal from the register (without specifying how this would be done). The later ruling, however, granted some of the "erased" -- those who had filed

petitions according to the laws -- residency rights. Other "erased" individuals resolved their legal status in the intervening years themselves through marriage, obtaining student or work visas, or other methods.

¶4. (U) An effort by the center-left government to pass a constitutional law in 2004 was foiled by an opposition-led referendum. The center-left government's coalition parties opposed the referendum, and key political figures advocated non-participation. Only 31% of eligible voters participated in the referendum, though those who did vote (mostly center-right party loyalists) overwhelmingly rejected the law because of concerns about "erased" persons' loyalty to Slovenia, the fact that the law would not adjudicate the status of "erased" persons on a case-by-case basis, and that it would not limit the government's responsibility for compensation claims.

¶5. (U) In early 2006, the current center-right government announced its intention to settle the issue of the "erased" through another constitutional law. The proposed law, which needs the approval of 2/3 of parliament to be enacted, would settle the status of "erased" people who have not yet obtained legal residency on a case-by-case basis and would limit compensation claims that could be filed by those "erased" who were denied benefits including unemployment, social security, medical insurance since their legal status came into question in 1992. The Act has not been forwarded to parliament on the grounds that there is not yet enough support to hit the 2/3 threshold. For a detailed history of the "erased" see reftel A.

¶6. (U) Currently, international and local human rights groups estimate that there are 4,000 to 6,000 "erased" persons who have not yet obtained citizenship or permanent residence

LJUBLJANA 00000126 002 OF 004

permits, and many more formerly "erased" who have regained citizenship or permanent residency but are still hoping to regain access to the social benefits they lost in the years between their erasure from the public register and the legalization of their status. No law exists that conclusively regulates the status of the "erased" despite the Constitutional Court rulings demanding one.

- - - - -
Ombudsman, Media, EU, Human Rights Groups Shine Spotlight on the "Erased"
- - - - -

¶7. (C) After flying under the radar for several years, the issue of the "erased" is again at the forefront with the Slovenian Human Rights Ombudsman, international human rights NGOs, international media, and EU bodies. Within Slovenia, outgoing Human Rights Ombudsman Matjaz Hanzek (his term ended February 21) has been one of the most prominent advocates for the "erased," and he criticized the GoS for its continued lack of action on the issue during farewell interviews with the media last week. In a meeting with PolOff January 8, Hanzek was even more critical, saying that he was "very afraid" of government comments regarding the problem of the "erased" that seem to imply that the issue has been largely resolved. Hanzek was pessimistic about a solution being put forward anytime soon. United Nations High Commissioner for Refugees (UNHCR), Amnesty International (AI), and other NGO organizations released press notices this week urging the GoS to resolve the problem of the "erased." AI sent letters to the European Commission, the European Council Presidency, and the European Parliament asking the EU to ensure that Slovenia remedies the situation in 2007, saying it would be "highly embarrassing" if the problems had not been addressed by the time Slovenia holds the EU Presidency in the first half of 2008. But, the negative message is already getting out. American political magazine "Mother Jones" covered the story of the "erased" in the January issue in a scathing story called "Slovenia's Vanishing Act."

¶ 8. (C) European institutions have, to varying degrees, begun to increase their involvement and weigh in on the issue. Recent efforts to take the issue beyond the national level began with a lawsuit filed on behalf of members of the "erased" community with the European Court of Human Rights in Strasbourg in July 2006. Then, in November 2006 representatives of the "erased" group traveled to Brussels to gain publicity for their cause. In Brussels, the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL) urged the GoS to bring about a solution to the problem and two Italian Members of the European Parliament made an inquiry to the European Commission about the issue. On February 6, the European Commission said that it was not competent to hear the issue, with EU Justice, Freedom, and Security Commissioner Franco Frattini saying that the issue was a national matter. However, the European Commission Against Racism and Intolerance (ECRI) mentioned the "erased" in its third report on Slovenia, published February 14 which called for the government to implement a solution in line with previous Constitutional Court decisions "without delay."

On February 26, the European Parliament's Committee for Petitions followed with an inquiry to the GoS about its efforts to resolve the problem of the "erased." EU pressure is coming locally as well. An EU diplomat told EmbOff recently that several EU missions in Ljubljana were working on a demarche to urge the GoS to take action on several long-standing high profile human rights problems, including finding a permanent solution for the "erased," saying that action was essential before Slovenia's EU Presidency in 2008.

¶ 9. (U) Activists in Slovenia are working to highlight the cause of the "erased" through a variety of projects. In early January, Slovenian NGO Peace Institute announced its intention to open an Office of Erased Permanent Residents of Slovenia to assist members of the "erased" in gaining citizenship. The office, which includes several employees and has the services of several Slovenian and Italian attorneys, will work to collect documentation on the "erased" community to use in efforts to legally resolve citizenship questions. It is opening with funding from the Soros Foundation, which donated 50% of operating costs for the next three years. From February 26 to March 7, local human rights organizations have planned a variety of events under the theme "The Week of the Erased" including a series of plays, films, photo exhibits, concerts, and an academic roundtable to highlight the fifteenth anniversary of the government's decision to remove the "erased" from government records.

Potential for Resolution Mired in Politics

LJUBLJANA 00000126 003 OF 004

¶ 10. (SBU) GoS officials, including Prime Minister Janez Jansa, Interior Minister Dragutin Mate, and Ministry of Interior State Secretary Zvonko Zinrajh, made statements over the past few weeks repeating the GoS position that the only way forward is with a constitutional law and a solution that adjudicates the "erased" problem on a case-by-case basis. However, it is highly unlikely the law will pass in its current form given the opposition of leaders from the chief government opposition Liberal Democratic Party (LDS). Opposition leaders disagree with the content of the current government's proposed act (particularly the case-by-case adjudication concept), and are still smarting from the political defeat they suffered (at the hands of then-opposition parties, now government coalition parties) regarding their government's "erased" bill in 2004 (reftel B). Critics maintain that the government's insistence on a constitutional law is an effort to manipulate the political process, ignore the Constitutional Court rulings, and avoid a final resolution of the problem. The ECRI report notes that "(the government's) decision (to seek a constitutional law) has been widely criticized both within the Parliament and in

civil society for effectively and deliberately leading to non-implementation of the Constitutional Court's decision." Former Ombudsman Hanzek said "the government refuses to realize that a constitutional law is not a solution."

¶11. (SBU) Not surprisingly given the context, the tone of debate on a resolution for the "erased" has taken a turn for the worse. The ECRI states in its report that it is "deeply concerned about the tone prevailing in Slovenian public and political debate" continuing that the "erased" have "fallen hostage to political considerations, including the exploitation of their situation as a vote gainer, and that the debate...has steadily moved away from human rights considerations." Examples of this include allegations from Member of Parliament Branko Grims, from leading coalition member Slovenian Democratic Party (SDS), that opposition to the coalition's constitutional law is a result of the opposition parties' nervousness about an open discussion of the facts and allegiances of people during the time of Slovenian independence. His comments echo previous allegations from center-right politicians that the "erased" must be evaluated one-by-one to ensure that no one who opposed the independence of Slovenia (or acted directly to thwart the independence movement) be granted citizenship, residency, or benefits. An editorial in regional daily "Primorske Novice" exemplifies the negative tone in public discourse, calling the "erased" people "write offs" who "rejected the new state," "actually erased themselves," and are simply people seeking out compensation. The daily fuels the fire by claiming that the "new citizens" from the "erased group" will "include former commanders of the Yugoslav army who fought against Slovenian forces and now live on Slovenian state pensions." National daily "Dnevnik" covers the issue more evenly, and in an editorial bemoans the fact that "racism and xenophobia against the "erased" has been encouraged by generalization and misguided interpretations as to their loyalty to Slovenia, as well as the economic impact on the country from compensation payments."

- - - -
Comment
- - - -

¶12. (C) COMMENT. Back in the news because of the fifteenth anniversary of their erasure, the "erased" remain a human rights albatross around Slovenia's neck and a continuing source of negative attention. The issue is complex and there are legitimate reasons for questioning the motivations of individuals who failed to regulate their status after several opportunities. However, international and domestic human rights organizations estimate that Slovenia continues to have approximately 4,000 to 6,000 residents from the "erased" community without any legal standing, and argue that the issue must not drag on further. Those groups, along with international media, are working to publicize the stories of individual members of the "erased" who suffer great hardship as a result of the situation. Like several other nagging problems that the GoS faces (Roma integration, court backlogs, property denationalization, etc.), political and financial factors make a final resolution of the "erased" problem difficult. With coalition and opposition parties in a deadlock about the proposed constitutional law, the outlook for a comprise solution seems bleak at the current time. However the increasing pressure the GoS is feeling to move forward, especially given its EU Presidency in 2008, make now a particularly good time to permanently resolve the status of the "erased." Whether the government will be able to find

LJUBLJANA 00000126 004 OF 004

the political will to do this by the end of 2007 remains to be seen. END COMMENT.

ROBERTSON